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ROBERT HUNTER BIDEN

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA
18 WESTERN DIVISION

19 ROBERT HUNTER BIDEN, an
20 individual,

21 Plaintiff,

22 vs.

23 PATRICK M. BYRNE, an individual,
24 Defendant.

Case No. 2:23-cv-09430-SVW-PD

**PLAINTIFF ROBERT HUNTER
BIDEN'S OPPOSITION TO
DEFENDANT'S MOTION IN
LIMINE NO. 6 TO EXCLUDE
TESTIMONY OR EVIDENCE OF
DEFENDANT'S FINANCIAL
CONDITION**

Date: November 25, 2024
Time: 3:00 P.M.
Place: Ctrm. 10A

Judge: Hon. Stephen V. Wilson

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

By this motion in limine, Defendant Patrick M. Byrne (“Defendant”) seeks to exclude any evidence or testimony regarding Defendant’s financial condition, on the grounds that such evidence is irrelevant to the determination of liability in this matter and prejudicial.¹ Defendant’s argument fails because evidence of his financial condition is relevant to Plaintiff’s punitive damages claim and there has been no bifurcation of the liability and damages phases of this trial. Therefore there cannot be a blanket exclusion of evidence regarding Defendant’s financial condition, which is relevant to the determination of punitive damages, unless the Court orders the liability and damages phases to be bifurcated under Federal Rule of Civil Procedure 42.

Accordingly, Defendant’s Motion in Limine No. 6 to exclude any evidence or testimony regarding Defendant’s financial condition should be denied.

II. ARGUMENT

Motions in limine are procedural devices to obtain an early and preliminary ruling on the admissibility of evidence. *United States v. Heller*, 551 F.3d 1108, 1111 (9th Cir. 2009). Although the Federal Rules of Evidence do not explicitly authorize motions in limine, the Supreme Court has noted that trial judges have developed the practice pursuant to their authority to manage trials. See *Luce v. United States*, 469 U.S. 38, 41 n. 4 (1984). Trial courts have broad discretion when ruling on motions in limine. See *Jenkins v. Chrysler Motors Corp.*, 316 F.3d 663, 664 (7th Cir. 2002).

However, “a motion in limine should not be used to resolve factual disputes or weigh evidence.” *C & E Servs.*, 539 F.Supp.2d at 323. A motion in limine is not the

¹ Defendant’s motions in limine should be denied because they are untimely and because Defendant’s counsel did not meet and confer with Plaintiff’s counsel on any motion in limine. Declaration of Zachary Hansen, ¶¶ 2-3, Exh. “A.”

1 proper vehicle for seeking a dispositive ruling on a claim, particularly after the
2 deadline for filing such motions has passed. *See Dubner*, 266 F.3d at 968; *see also*
3 Jones, et al., Rutter Group Prac. Guide Fed. Civ. Trials & Evid., ¶ 4:345 (The Rutter
4 Group, 2006) (“Motions *in limine* may not be used, however, as a disguise for a
5 motion for summary judgment or to dismiss.”).

6 “Motions in limine that seek exclusion of broad and unspecific categories of
7 evidence, however, are generally disfavored.” *Kaneka Corporation v. SKC Kolon PI,*
8 *Inc.*, 2015 WL 12696109, *2 (C.D.Cal. 2015) (quoting *Sperberg v. The Goodyear*
9 *Tire and Rubber Co.*, 519 F.2d 708, 712 (6th Cir. 1975)). Courts have recognized that
10 it “is almost always better situated during the actual trial to assess the value and utility
11 of evidence. [citation omitted]...Therefore, when confronted with this situation, “a
12 better practice is to deal with questions of admissibility of evidence as they arise [in
13 actual trial]” as opposed to tackling the matter in a vacuum on a motion in limine.
14 [Citation omitted].” *Kaneka*, 2015 WL 12696109, *2. Here, Plaintiff seeks to
15 exclude the broad category of any evidence of emotional distress. That is improper
16 on its face and should be denied.

17 **A. Evidence of Defendant’s Financial Condition is Relevant to the**
18 **Determination of Punitive Damages.**

19 Defendant’s basis for excluding evidence of his financial condition is that such
20 evidence is irrelevant to the determination of liability in this matter. However,
21 Defendant admits in the Motion “[t]his evidence will only become relevant if the jury
22 finds Defendant liable and makes a finding that Defendant is liable for punitive
23 damages.” (Motion, at 2:2-4.) Additionally, in his Memorandum of Contentions of
24 Fact and Law, filed on November 5, 2024, Defendant admits that if the jury finds him
25 liable for defamation in this case, “[o]nce they do so, they will have to consider
26 Defendant’s financial condition as part of their determination of punitive damages.”
27 (See Dkt. No. 94, at 15:3-7.) Central District Local Rule 16-4.3 requires any request
28 for bifurcation to be contained in the Parties’ memorandum of contentions of law and

1 fact. Notably, neither Party has sought a bifurcation order in this matter to separate
2 the issues of liability from those involving the determination of damages, nor has the
3 Court issued any such bifurcation order under its discretion pursuant to Federal Rule
4 of Civil Procedure 42. Accordingly, without an order bifurcating the liability phase
5 of the trial from the damages phase of the trial, the Parties are in agreement that
6 Defendant's financial condition is indeed relevant. This position is also supported by
7 relevant case law. *See Diaz v. Tesla, Inc.*, 697 F.Supp. 906 (N.D. Cal. 2023)
8 (Defendant's financial condition may be considered by the jury in awarding punitive
9 damages); *see also Century Surety Co. v. Polisso*, 139 Cal.App.4th 922, 960 (2006)
10 ("The courts have long recognized that the defendant's financial condition is an
11 essential factor in setting the amount of a punitive damage award that will be
12 sufficient to serve the goals of retribution and deterrence without exceeding the
13 necessary level of punishment."); *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538
14 U.S. 408, 427-428 (2003) (evidence of Defendant's financial condition is relevant to
15 determination of punitive damages).

16 As such, without an order bifurcating the issues of liability and damages in this
17 case, evidence of Defendant's financial condition is relevant to the material issues in
18 this case and should not be excluded.

19 **B. The Probative Value of Evidence of Defendant's Financial**
20 **Condition is Probative of Plaintiff's Punitive Damages Claims and**
21 **Outweighs Any Alleged Prejudice to Defendant.**

22 Citing Federal Rule of Evidence 401, Defendant also argues that the prejudice
23 to him from the presentation of evidence of his financial condition substantially
24 outweighs its probative value. That argument is nonsensical. Plaintiff alleged in the
25 complaint that he was seeking punitive as a result of Defendant's defamatory
26 comment about Plaintiff. It is thus part of Plaintiff's case and highly probative of
27 damages. *See Sandigo v. Ocwen Loan Servicing, LLC*, 2019 WL 2579341, *3
28 (N.D.Cal. 2019). Defendant's argument of prejudice should be rejected

1 **III. CONCLUSION**

2 For the foregoing reasons, the Court should deny Defendant's Motion In
3 Limine No. 6.

4 Dated: November 13, 2024

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7 By: /s/ Zachary C. Hansen

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25 *Attorney for Plaintiff*
26 *Robert Hunter Biden*

DECLARATION OF ZACHARY HANSEN

I, Zachary C. Hansen, declare and state as follows:

1. I am counsel of record for Plaintiff Robert Hunter Biden (“Plaintiff”) in the above-entitled action and am over the age of 18. I hereby submit this declaration in support of Plaintiff’s Opposition To Defendant’s Motion In Limine No. 6 To Exclude Testimony or Evidence of Defendant’s Financial Condition. If called as a witness, I would and could testify to the matters contained herein.

2. Defendant’s counsel, Michael Murphy, Esq., did not attempt to meet and confer with me on these Motions In Limine. I attempted to meet and confer with Mr. Murphy the week of October 28, 2024, but he said that he was unavailable that week due to his other time sensitive deadlines. Attached hereto as **Exhibit “A”** is a true and correct copy of this email exchange dated October 28, 2024 through November 1, 2024.

3. All of Defendant’s Motions In Limine, including this motion, were filed on Wednesday, November 6, 2024, between 4:30 pm and 5:00 pm PST, with a hearing date of November 25, 2024, on nineteen days notice instead of the required 21 days notice. I never granted Defendant any extensions on the deadline to file Motions in Limine.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 13th day of November, 2024, at Summit, New Jersey.

/s/ Zachary C. Hansen
Zachary C. Hansen